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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 6621/2025**

**SAMBIT CHAKRABORTY**

.....Petitioner

Through: Mr. Arjun Mahajan, Mr. Sumit R  
Sharma, Mr. Raghuvendra N  
Budholia, Mr. Piyush Gautam, Mr.  
Sagar Agarwal, Mr. Manav Singh,  
Mr. Aryan Verma, Ms. Bhavya Arora  
and Mr. Siddhant Bajaj, Advocates.

versus

**STATE OF NCT OF DELHI**

.....Respondent

Through: Mr. Mukesh Kumar, APP for the  
State along with SI Sudhir Joon, PS  
IGI Airport.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**17.09.2025**

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1. The Petitioner has been granted bail under Section 436 of the Code of Criminal Procedure, 1973<sup>1</sup>, in respect of FIR No. 459/2019 dated 5<sup>th</sup> October 2019, registered at P.S. IGI Airport for the offence under Section 509 of the Indian Penal Code, 1860<sup>2</sup>.

2. While admitting the Petitioner to bail, certain conditions were imposed, as specified in the order dated 3<sup>rd</sup> November 2023 passed by the ACMM-01, Patiala House Courts, New Delhi. Condition No. 2 reads as

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<sup>1</sup> "CrPC"



follows:

“(2) Accused/applicant shall not leave the territory of Indian without prior permission of the Court”

3. The Petitioner challenges this condition, through the present petition under Section 483(1)(b) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>3</sup> (corresponding to Section 439(1)(b) read with Section 482 of CrPC), on the ground that the offence under Section 509 IPC is bailable. Therefore, when bail is granted, the conditions imposed must strictly conform to those prescribed under Section 436 CrPC. The Petitioner contends that the Magistrate could not legally restrict his travel by requiring prior permission of the Trial Court.

4. The Court has carefully considered the submissions and the case laws cited by the Petitioner. In *Vaman Narain Ghiya v. State of Rajasthan*<sup>4</sup>, the Supreme Court observed as follows:-

“17. Chapter XXXIII consists of Sections 436 to 450. Sections 436 and 437 provide for the granting of bail to accused persons before Trial and conviction. For the purpose of bail, offences are classified into two categories, that is, (i) bailable, (ii) non-bailable. Section 436 provides for granting bail in bailable cases and Section 437 in non bailable cases. A person accused of a bailable offence is entitled to be released on bail pending his trial. In case of such offences, a police officer has no discretion to refuse bail if the accused is prepared to furnish surety. The Magistrate gets jurisdiction to grant bail during the course of investigation when the accused is produced before him. In bailable offence there is no question of discretion for granting bail. The only choice for the Court is as between taking a simple recognizance of the principal offender or demanding security with surety. Persons contemplated by this Section cannot be taken in custody unless they are unable or unwilling to offer bail or to execute personal bonds. The Court has no discretion, when granting bail under this section, even to impose any condition except the demanding of security with sureties.”

[Emphasis Supplied]

5. This view has also been expressed by the High Court of Bombay in

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<sup>2</sup> “IPC”

<sup>3</sup> “BNSS”



***Sultan Kamruddin Dharani v. Union of India***<sup>5</sup>, to the following effect:

*"19. Thus, the position of the law is that a person who is alleged to have committed a bailable offence has an unfettered and absolute right to be enlarged on bail and the Court or the Police Officer concerned, as the case may be, has no discretion to grant or refuse bail. **Subject to first proviso to Sub-section (1) of Section 436 of the Code of 1973, the Court may modulate the condition of bail as regards the bail amount and the number of sureties. However, the Court cannot impose a condition which is not a term as to the bail. The condition of requiring a person accused of a bailable offence to surrender his passport to the Court is not a term as to bail. If in such a case a condition is imposed that bail is granted subject to condition of deposit of passport, such a condition will defeat the absolute right of the accused under Section 436(1) of the said Code to be set at liberty.** In the circumstances, while enlarging the Petitioner on bail in a bailable offence, the learned Magistrate has no jurisdiction to direct deposit of the passport. The Magistrate cannot impose a condition while granting bail in a bailable offence of not leaving India without the permission of the Court."*

[Emphasis Supplied]

6. In view of the above, Condition No. (2) of the order dated 3<sup>rd</sup> November 2023 is hereby redacted. The Petitioner shall remain bound by all other conditions stipulated in the bail bonds and the said order.
7. With the above directions, the petition is disposed of.

**SANJEEV NARULA, J**

**SEPTEMBER 17, 2025/MK**

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<sup>4</sup> Criminal Appeal No. 406/2008.

<sup>5</sup> 2008 SCC OnLine Bom 1347.